

401 KAR 5:300. Permit timetables for 401 KAR Chapter 5.

RELATES TO: KRS 224.10-100, 224.10-220, 224.16-050(1)

STATUTORY AUTHORITY: KRS 224.10-100, 224.10-220

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-220 requires the Environmental and Public Protection Cabinet to prescribe timetables for the issuance of all permits by the cabinet, except those permits for which a timetable is set out by statute. This administrative regulation establishes timetables for permits that are required by 401 KAR Chapter 5.

Section 1. Permit Timetables. This section shall apply for permits required by 401 KAR 5:005 and permits for the transportation of produced water required by 401 KAR 5:090. The cabinet shall issue its final decision on a complete permit application within the review time specified in this section. A complete permit application shall contain all the administrative and technical information required by applicable statutes and administrative regulations.

(1) For approvals for the transportation of produced water granted by the cabinet pursuant to 401 KAR 5:090, the review time shall be thirty (30) calendar days after receipt of a complete permit application; and

(2) For permits required by 401 KAR 5:005, the review time shall be forty-five (45) calendar days from receipt of a complete permit application.

Section 2. Timetables for KPDES Permits. This section shall apply for KPDES permits pursuant to KRS 224.16-050(1). The cabinet shall issue its final decision on a complete permit application within 180 calendar days after receipt of an administratively complete permit application, except as provided in Section 3 of this administrative regulation. A complete permit application shall contain all the administrative and technical information required by applicable statutes and administrative regulations.

(1) Within thirty (30) calendar days of initial receipt of an application for a KPDES permit, the cabinet shall notify the applicant as to whether the application is administratively complete, or if not complete, of the deficiencies which make the application administratively incomplete. A determination that the application is administratively complete shall not mean that the application is complete in every detail, nor shall it mean that any aspect of the application is technically sufficient or approvable.

(2) If the application is determined to be administratively incomplete, the applicant shall correct identified deficiencies within thirty (30) calendar days of the date of notification. If the applicant does not correct identified deficiencies within the time frame, the cabinet may return the application, and the filing fees shall be retained by the cabinet.

(3) After the notification that the application is administratively complete, if the cabinet determines that the application is technically deficient, the cabinet shall notify the applicant of deficiencies which make the application technically incomplete or unapprovable. The applicant shall correct the technical deficiencies within thirty (30) calendar days of the notification, or other time as agreed upon by the applicant and cabinet. If the technical deficiencies are not corrected within thirty (30) calendar days or the agreed upon time frame, the cabinet may deny the permit, and the filing fee shall be retained by the cabinet.

Section 3. Timetable Exclusions. Time periods which shall not be included in the cabinet's consideration of its decision on a KPDES application shall include:

(1) Time waiting for the applicant to respond to a notice of deficiency;

(2) Time during which the permit, application, decision, or related matter is held in litigation, including but not limited to administrative hearings;

- (3) Time during which an opportunity for public hearing or public comment period on a draft or proposed permit is given, and time during which a public hearing is scheduled and held;
- (4) Time waiting for federal, state or local agencies to comment on the permit or to respond to written requests from the cabinet for additional information;
- (5) Time waiting for permit fees to be paid after the cabinet's final permit decision regarding the application is made; and
- (6) Other times as agreed to by the applicant and the cabinet.

Section 4. Timetable Extensions. (1) If two (2) or more permits for a facility, site, source, construction project, or other entity are required from the cabinet, the cabinet may coordinate the issuance of the permits, establishing different review and action times that shall be accomplished by the cabinet or applicant. If the permits are coordinated, the cabinet shall so notify the applicant and indicate the time frames under which the intermediate and final permit actions shall be accomplished. The established time frame for final action shall not exceed the last date for action that is provided for under applicable statutes and administrative regulations, based on all applications being considered and their filing dates.

(2) The applicant and the cabinet may agree that the timetables or review times specified in this administrative regulation may be extended.

Section 5. For permit applications submitted to the division prior to the effective date of this administrative regulation, the review times shall be applied as if the application were submitted on the effective date of this administrative regulation. (19 Ky.R. 1943; Am. 2402; eff. 4-28-1993; TAm eff. 8-9-2007.)